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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,232	07/25/2003	George Van Campen	1027.P005USC1	2443

29053 7590 02/24/2006

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.  
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EXAMINER

FAULCON JR, LENWOOD

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

### Period for Reply

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 13-18 and 24-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-5, 13-18 and 24-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: it appears there is not proper antecedent basis for the claimed subject matter which deals with a repetition parameter that defines a number of pulses within a stimulation cycle "independent from one or several pulse frequency parameters."

### ***Claim Rejections - 35 USC § 103***

3. Claims 1, 4-5, 13, 16-18, 24, 26-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over North et al. (U.S. 2001/0007950) in view of as applied in the previous Office Action of July 27, 2005, and further in view of Reiss (U.S. Patent No. 5,324,317).

Reiss teaches of an interferential stimulator that comprises a repetition parameter associated with a stimulation setting that is independent of the pulse frequency parameter of stimulation setting (col. 1 lines 62-68 and col. 2 lines 1-16).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by North et al. to include a repetition parameter setting as taught by Reiss to provide improved treatment, as taught by Reiss.

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North et al., and Reiss teach of stimulation systems for treating pain and thus teach of analogous arts. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by North et al. to have the limitations of claims 1, 4-5, 13, 16-18, 24, 26-28 and 30-31.

4. Claims 2-3, 14-15, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over North et al. (U.S. 2001/0007950) in view of Lunch (U.S. Patent No. 5,038,781) as applied in the previous Office Action of July 27, 2005, and further in view of Reiss (U.S. Patent No. 5,324,317) as applied above.

It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of North et al. and Lunch for the reasons stated in the previous Office Action of July 27, 2005, and it would have been obvious to further combine the teachings of Reiss for the reasons stated above. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of North et al., Lunch and Reiss to have the limitations of claims 2-3, 14-15, 25 and 29.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kastrubin et al. (U.S. Patent No. 4,121,593), Stanton (U.S. Patent No. 4,392,496), Lynch (U.S. Patent No. 4,934,368), Mullet (U.S. Patent No. 5,031,618), Campos (U.S. Patent No. 5,097,833), Collins (U.S. Patent No. 5,251,621), Schaldach et al. (U.S. Patent No. 5,354,320), Madsen et al. (U.S. Patent No.

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5,776,173), Michelson et al. (U.S. Patent No. 6,445,955), Deno et al. (U.S. 2004/0049235), Skolnick (WO 87/07511).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenwood Faulcon, Jr. whose telephone number is 571-272-6090. The examiner can normally be reached on Monday-Thursday from 9 to 5 pm.

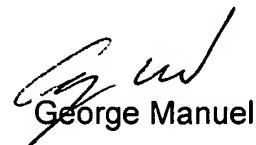
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lenwood Faulcon, Jr.



George Manuel

Primary Examiner